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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/731,632

12/09/2003

Ashutosh K. Jha

NVDA P001157

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PATTERSON & SHERIDAN L.L.P. NJ Office

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EXAMINER

ROSE, KERRI M

ART UNIT

PAPER NUMBER

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

**Advisory Action
Before the Filing of an Appeal Brief**

Application No. 10/731,632	Applicant(s) JHA ET AL.
Examiner KERRI M. ROSE	Art Unit 2616

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 26 February 2008 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☐ The period for reply expires _____ months from the mailing date of the final rejection.
b) ☒ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

NOTICE OF APPEAL

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

AMENDMENTS

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);
(b) ☐ They raise the issue of new matter (see NOTE below);
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).
5. ☐ Applicant's reply has overcome the following rejection(s): _____.
6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☒ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.
The status of the claim(s) is (or will be) as follows:
Claim(s) allowed: _____.
Claim(s) objected to: _____.
Claim(s) rejected: 1-5, 8-12, 15-17 and 19-25
Claim(s) withdrawn from consideration: _____.

AFFIDAVIT OR OTHER EVIDENCE

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

REQUEST FOR RECONSIDERATION/OTHER

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:
See Continuation Sheet.
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). _____
13. ☐ Other: _____.

/Aung S. Moe/
SPE 2616

Continuation of 11, does NOT place the application in condition for allowance because: Applicant argues Hayes does not teach a user and legacy buffer. Paragraph 3 indicates that the offload processor may place data directly into a user's memory space. This memory space must be allocated, not within the network interface card, but within the computer in order for the user to have quick access to the memory. Memory bandwidth is reduced because a copy is placed directly into a user buffer without first entering the operating system's memory. (Although examiner notes Hayes discloses two goals, reduced memory bandwidth OR reduced processing power. The user buffer could also be located in memory 108 because the NIC reduces processing power and does not care about memory bandwidth for this particular embodiment. Such a reading would still be within the teachings of Hayes.) Having the user memory located in memory 108 within the computer is still in line with the teaching of Hayes and satisfies the claims. Additionally the user memory would be allocated to an application because users interact with a computer through the application layer. It would again follow the goals of Hayes to reduce memory bandwidth to place the data directly into a user buffer which is located in the application space, because then the application can quickly access the required information. Paragraph 3 further indicates that processing may be returned or finished by the host CPU if necessary. Whereas the application memory and the driver memory may have actual physical differences, such as one being cache and the other RAM or ROM, the difference between "driver memory" and "operating system" memory seems semantic since both are the same type of memory. Applicant does not give a reason why "software driver memory" should be considered different from "operating system memory" and in fact based upon figure 2a of the specification software driver memory [235] would seem to be a subset of the operating system memory [130]. In other words the "software driver memory" is simply a contiguous portion of the "operating system memory." Additionally, applicant admits in the next paragraph that drivers are taught by Hayes. The portion of memory occupied by these drivers could easily be labeled "software driver memory." Applicant argues the drivers are not shown associated with memory, however the drivers must have memory in order to store the packets before and during their processing. Applicant also argues that Hayes does not teach interrupts. As explained in the rejection, interrupts are an inherent feature. Processors use interrupts to avoid wasting time in polling loops. Instead an interrupt is sent when work is ready for the CPU..